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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:	:	Before the Examiner:
John F. Bisceglia	:	Steelman, Mary J.
Serial No.: 10/015,855	:	Group Art Unit: 2122
Filed: December 13, 2001	:	
Title: A DEVELOPMENT	:	IBM Corporation
ENVIRONMENT FOR BUILDING	:	Intellectual Property Law
SOFTWARE APPLICATIONS THAT	:	11400 Burnet Road
MIMIC THE TARGET ENVIRONMENT	:	Austin, Texas 78758

APPEAL BRIEF

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

I. REAL PARTY IN INTEREST

The real party in interest is International Business Machines, Inc., which is the assignee of the entire right, title and interest in the above-identified patent application.

CERTIFICATION UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on September 1, 2005.

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Signature

Toni Stanley

(Printed name of person certifying)

II. RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to Appellant, Appellant's legal representative or assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-47 are pending in the Application. Claims 1-47 stand rejected. Claims 1-47 are appealed.

IV. STATUS OF AMENDMENTS

Appellant has not submitted any amendments following receipt of the final rejection with a mailing date of May 16, 2005.

V. SUMMARY OF CLAIMED SUBJECT MATTER

In one embodiment of the present invention, a method for creating and managing a development environment that mimics a target environment where a software application will be implemented may comprise the step of receiving a first request comprising a description of the development environment and the software application to be developed, where the development environment comprises hardware components and software components. Specification, page 12, line 11 – page 15, line 9; Figure 3, element 301. The method may further comprise reviewing the first request in accordance with control information for managing the first request. Specification, page 15, line 6 – page 19, line 4; Figure 3, element 302. The method may further comprise assigning the first request to one or more developers. Specification, page 19, lines 5-12; Figure 3, element 303. The method may further comprise processing the first request. Specification, page 19, lines 13-23; Figure 3, element 304. The method may further comprise establishing the development

environment upon the processing of the first request. Specification, page 12, line 11 - page 19, line 23; Figure 3, elements 301, 302, 303 and 304. The method may further comprise monitoring the development environment asynchronously for violations of conditions established by the control information. Specification, page 20, line 8 - page 22, line 24; Figure 3, element 305.

In another embodiment of the present invention, a computer program product embodied in a machine readable medium for creating and managing a development environment that mimics a target environment where a software application will be implemented comprises the programming step of receiving a first request comprising a description of the development environment and the software application to be developed, where the development environment comprises hardware components and software components, where the first request is reviewed in accordance with control information for managing the first request, where the first request is processed, where upon processing the first request the development environment is established. Specification, page 9, line 25 - page 11, line 8; Specification, page 12, line 11 - page 19, line 23; Figure 2, elements 220 and 250; Figure 3, elements 301, 302, 303 and 304. The computer program product may further comprise the programming step of monitoring the development environment asynchronously for violations of conditions established by the control information. Specification, page 9, line 25 - page 11, line 8; Specification, page 20, line 8 - page 22, line 24; Figure 2, elements 220 and 250; Figure 3, element 305.

In another embodiment of the present invention, a system comprises a memory unit operable for storing a computer program operable for creating and managing the development environment that mimics the target environment where the software application will be implemented. Specification, page 9, line 25 - page 11, line 8; Figure 2, elements 130, 214, 220 and 250. The system may further

comprise a processor coupled to the memory unit, where the processor, responsive to the computer program, comprises circuitry operable for receiving a first request comprising a description of a development environment and a software application to be developed in a target environment, where the development environment comprises hardware components and software components, where the first request is reviewed in accordance with control information for managing the first request, where the first request is processed, where upon processing the first request the development environment is established. Specification, page 9, line 25 – page 11, line 8; Specification, page 12, line 11 - page 19, line 23; Figure 2, elements 210, 220 and 250; Figure 3, elements 301, 302, 303 and 304. The processor, responsive to the computer program, may further comprise circuitry for monitoring the development environment asynchronously for violations of conditions established by the control information. Specification, page 9, line 25 – page 11, line 8; Specification, page 20, line 8 – page 22, line 24; Figure 2, elements 210, 220 and 250; Figure 3, element 305.

In another embodiment of the present invention, a system comprises means for receiving a first request comprising a description of a development environment and a software application to be developed in a target environment, where the development environment comprises hardware components and software components, where the first request is reviewed in accordance with control information for managing the first request, where the first request is processed, where upon processing the first request the development environment is established. Specification, page 9, line 25 – page 11, line 8; Specification, page 12, line 11 - page 19, line 23; Figure 2, elements 210, 220 and 250; Figure 3, elements 301, 302, 303 and 304. The system may further comprise means for monitoring the development environment asynchronously for violations of conditions established by the control information. Specification, page 9, line 25 – page 11, line 8; Specification, page 20, line 8 – page 22, line 24; Figure 2, elements 210, 220 and 250; Figure 3, element 305.

In another embodiment of the present invention, the system as described in the previous paragraph may further comprise means for identifying a violation of a condition. Specification, page 9, line 25 – page 11, line 8; Specification, page 20, line 7 – page 22, line 24; Figure 2, elements 210, 220 and 250; Figure 3, element 305. The system may further comprise means for notifying a developer of the violated condition. Specification, page 9, line 25 – page 11, line 8; Specification, page 22, line 25 – page 23, line 10; Figure 2, elements 210, 220 and 250; Figure 3, element 306.

In another embodiment of the present invention, the system as described in the previous paragraph may comprise means for inserting information of the violation of the condition in a report. Specification, page 9, line 25 – page 11, line 8; Specification, page 23, lines 11-28; Figure 2, elements 210, 220 and 250; Figure 3, element 307. The system may further comprise means for issuing the report to a customer. Specification, page 9, line 25 – page 11, line 8; Specification, page 23, lines 11-28; Figure 2, elements 210, 220 and 250; Figure 3, element 307.

In another embodiment of the present invention, the system as described in the third paragraph above may further comprise means for inserting information on a status of the development environment in a report. Specification, page 9, line 25 – page 11, line 8; Specification, page 23, lines 11-28; Figure 2, elements 210, 220 and 250; Figure 3, element 307. The system may further comprise means for issuing the report to a customer. Specification, page 9, line 25 – page 11, line 8; Specification, page 23, lines 11-28; Figure 2, elements 210, 220 and 250; Figure 3, element 307.

In another embodiment of the present invention, the system as described in the fourth paragraph above may further comprise means for receiving a second request, where the second request comprises a request to implement a change in the development environment. Specification, page 9, line 25 – page 11, line 8;

Specification, page 12, line 11 – page 15, line 9; Figure 2, elements 210, 220 and 250; Figure 3, element 301.

In another embodiment of the present invention, the system as described in the fifth paragraph above may further comprise means for receiving a second request, where the second request comprises a request to correct a problem detected in the development environment. Specification, page 9, line 25 – page 11, line 8; Specification, page 12, line 11 – page 15, line 9; Figure 2, elements 210, 220 and 250; Figure 3, element 301.

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-47 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Ream et al. (U.S. Patent Application Publication No. 20020112232) (hereinafter "Ream") in view of Bowman-Amuah (U.S. Patent No. 6,405,364) (hereinafter "Bowman")

VII. ARGUMENT

A. Claims 1-47 are improperly rejected under 35 U.S.C. §103(a) as being unpatentable over Ream in view of Bowman.

The Examiner has rejected claims 1-47 under 35 U.S.C. § 103(a) as being unpatentable over Ream in view of Bowman. Paper No. 5, page 2. Appellant respectfully traverses these rejections for at least the reasons stated below.

1. The Examiner has not provided any objective evidence or appropriate motivation for combining Ream with Bowman.

A *prima facie* showing of obviousness requires the Examiner to establish, *inter alia*, that the prior art references teach or suggest, either alone or in combination, all of the limitations of the claimed invention, and the Examiner must

provide a motivation or suggestion to combine or modify the prior art reference to make the claimed inventions. M.P.E.P. §2142. The showings must be clear and particular and supported by objective evidence. *In re Lee*, 277 F.3d 1338, 1343, 61 U.S.P.Q.2d 1430, 1433-34 (Fed. Cir. 2002); *In re Kotzab*, 217 F.3d 1365, 1370, 55 U.S.P.Q.2d 1313, 1317 (Fed. Cir. 2000); *In re Dembiczak*, 50 U.S.P.Q.2d. 1614, 1617 (Fed. Cir. 1999). Broad conclusory statements regarding the teaching of multiple references, standing alone, are not evidence. *Id.*

The Examiner's motivation for modifying Ream with Bowman¹ is "because a team of developers provide a wider body of knowledge, useful in software development, and may contribute work effort from distributed locations via the network." Paper No. 5, page 5. The Examiner's motivation is insufficient to support a *prima facie* case of obviousness for at least the reasons stated below.

The Examiner's motivation is not a motivation as to why one of ordinary skill in the art would modify Ream with Bowman. The Examiner's motivation is a motivation for Bowman to solve its problem. Bowman teaches that the conventional Web environment provides less complex, faster interactions because of the Web's level of interaction between clients and servers. Column 2, lines 11-14. Bowman further teaches that requirements are specified for both a system to be built and an implementation strategy to fulfill the requirements. Column 2, lines 19-21. Bowman further teaches that the performance and maintenance of the system are improved by using information relating to a previous system. Column 2, lines 22-24. Bowman further teaches that the system is tested to ensure that the requirements are fulfilled. Column 2, lines 28-29. Bowman further teaches that a team of developers are used to test the system to be developed. Column 11, lines 40-43. Thus, Bowman teaches

¹ The Examiner has refused to particularly point out the missing limitation in claims 1, 15, 26 and 37 that Ream allegedly does not disclose. The Examiner states that Ream's system was automated and failed to show a group of developers working on a development environment. Paper No. 5, page 4. However, there is no limitation in claims 1, 15, 26 and 37 that recites these words.

that a system is improved by using information relating to a previous system and then testing the system to ensure that requirements are fulfilled using a team of developers. Hence, the Examiner's motivation ("because a team of developers provide a wider body of knowledge, useful in software development") relates to improving the performance and maintenance of a system which relates to the problem to be solved in Bowman. The Examiner's motivation is not a suggestion to combine Ream with Bowman. The Examiner must provide objective evidence as to why one of ordinary skill in the art with Ream in front of him, which teaches installing required software on a computer while minimizing the amount of operator intervention required for installation ([0010] of Ream), would have been motivated to modify the teachings of Ream with the teachings of Bowman, which teaches building systems in a development architectural framework (Abstract of Bowman). *See In re Lee*, 61 U.S.P.Q.2d 1430, 1433-34 (Fed. Cir. 2002); *In re Kotzab*, 55 U.S.P.Q.2d 1313, 1318 (Fed. Cir. 2000). Merely stating the motivation to solve the problem of Bowman is not evidence for suggesting the combination of Ream with Bowman. *See Id.* Consequently, the Examiner's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claims 1-47. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

In response to Appellant's above argument, the Examiner states:

In this case, Bowman suggested that his invention (col. 9, lines 51-53) reduced effort and costs involved with designing, implementing and maintaining. It would have been obvious, to one of ordinary skill in the art, at the time of the invention, to modify Ream's suggestion of using a developer and system to improve efficient [0009], by including a team of developers, as disclosed by Bowman-Amuah, because a team of (col. 5, lines 45-51) software engineers (developers) using OOP technology enable 'improved quality of the software as well as an increased speed of its development.' Col. 8, lines 23-26, 'Thus, through the development of frameworks for solutions to various problems and programming tasks, significant reductions in the design and development effort for software can be achieved. Advisory

Action, pages 2-3.

Appellant respectfully traverses the assertion that the Examiner has provided a proper motivation for combining Ream with Bowman to include the missing limitation (Examiner never recites which limitation is not taught by Ream). The Examiner cites column 9, lines 51-53 of Bowman in support of her assertion. Advisory Action, page 2. Bowman teaches that the Integrated Development Environment Architecture provides a development environment framework and associated guidelines that reduce the effort and costs involved with designing, implementing and maintaining an integrated development environment. Column 9, lines 51-55. Hence, Bowman teaches the use of an Integrated Development Environment (IDE) whose purpose is to support the tasks involved in the analysis, design, construction and maintenance of business systems, as well as the associated management processes. Column 9, lines 62-65. The Examiner has not clearly explained how the teaching of an IDE whose purpose is to support the tasks involved in the analysis, design, construction and maintenance of business systems relates to proving that the Examiner has shown proper motivation for modifying Ream with Bowman.

The Examiner continues by citing paragraph 0009 of Ream (Advisory Action, page 2) which teaches that it is the object of the present invention to improve the efficiency with which servers can be built. [0009]. Ream further teaches that such an improvement is inherent in the claimed system and process in that operator intervention requirements are minimized, easing the constraints of having trained personnel available to install software onto a recipient computer. [0009]. The Examiner has not clearly explained how the teaching of improving the efficiency with which servers can be built as well the teaching of easing the constraints of having trained personnel available to install software onto a recipient computer relates to proving that the Examiner has shown proper motivation for modifying Ream with Bowman.

The Examiner continues by citing column 5, lines 45-51 and column 8, lines 23-26 of Bowman as support for her assertion that the Examiner has provided appropriate motivation for modifying Ream with Bowman to include the missing limitation (Examiner never recites which limitation is not taught by Ream). Advisory Action, page 3. Bowman teaches that this process closely resembles complex machinery being built out of assemblies and sub-assemblies. Column 5, lines 45-46. Bowman further teaches that OOP (object oriented programming) technology, therefore, makes software engineering more like hardware engineering in that software is built from existing components, which are available to the developer as objects. Column 5, lines 46-49. Hence, Bowman, in one of the cited passages, is simply stating a description of the object oriented programming language. Bowman further teaches that the development of frameworks for solutions to various problems and programming tasks, significant reductions in the design and development effort for software can be achieved. Column 5, lines 23-26. Hence, Bowman teaches the advantages of using frameworks over class libraries. An example of such a framework is the IDE. The Examiner has not clearly explained how the teaching of a description of the object oriented programming language as well as the teaching of the advantages of using frameworks over class libraries relates to proving that the Examiner has shown proper motivation for modifying Ream with Bowman.

In short, Appellant respectfully asserts that the Examiner appears to be randomly citing passages in Ream and Bowman and then concluding that the Examiner has provided appropriate motivation for modifying Ream with Bowman to include the missing limitation(s) (which the Examiner has never stated). This is insufficient to support a *prima facie* case of obviousness. M.P.E.P. §2143. The Examiner must submit objective evidence for modifying Ream with Bowman instead of relying upon her own subjective opinion. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). Accordingly, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 1-47. *Id.*

Furthermore, the Examiner's motivation for modifying Ream with Bowman to have a statement of work that includes contract conditions, as recited in claim 6 and similarly in claims 20, 31 and 42, is "because a clear agreement is necessary to appropriately plan and organize the development work and work efficiently towards an acceptable goal." Paper No. 5, page 8. The Examiner's motivation is insufficient to support a *prima facie* case of obviousness for at least the reasons stated below.

In order to establish a *prima facie* case of obviousness, the Examiner must provide a suggestion or motivation, either in the references themselves, the knowledge of one of ordinary skill in the art, or, in some cases the nature of the problem to be solved, to modify the reference or to combine reference teachings. *See In re Dembiczak*, 175 F.3d 1994, 1999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). The Examiner has not provided any evidence that her motivation comes from any of these sources. Instead, the Examiner is relying upon her own subjective opinion which is insufficient to support a *prima facie* case of obviousness. *In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002). Consequently, the Examiner's motivation is insufficient to support a *prima facie* case of obviousness for rejecting claims 6, 20, 31 and 42. M.P.E.P. §2143.

2. Claims 1, 15, 26 and 37 are patentable over Ream in view of Bowman.

Appellant respectfully asserts that Ream and Bowman, taken singly or in combination, do not teach or suggest "receiving a first request comprising a description of said development environment and said software application to be developed, wherein said development environment comprises hardware components and software components" as recited in claim 1 and similarly in claims 15, 26 and 37. The Examiner cites paragraphs 0036 and 0044 of Ream as teaching the above-cited claim limitation. Paper No. 5, pages 2-3. Appellant respectfully traverses and asserts

that Ream instead teaches a person providing a build definition that may include the identification of a desired operating system, as well as of specific software applications or updates of applications desired to be installed on a recipient computer. [0036]. There is no language in the cited passages that teaches that the build definition includes an identification of both hardware and software. Instead, the build definition provides an identification of only software. Hence, Ream does not teach receiving a request that includes a description of the development environment where the development environment includes hardware components and software components. Furthermore, there is no language in the cited passages that teaches receiving a request that includes a description of a software application to be developed. Instead, Ream teaches a person identifying the software to be installed on a computer. [0036]. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 1, 15, 26 and 37, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

In response to Appellant's above argument, the Examiner appears to be focusing on the terms "build definition" and "recipient computer" in paragraphs 0036 and 0044 as evidence that Ream teaches the above-cited claim limitation. Advisory Action, page 5. Appellant respectfully traverses that Ream teaches the above-cited claim limitation.

Ream instead teaches that the build generating platform 106 includes build generating software for generating a build plan. [0036]. Ream further teaches that the build generating software 112 receives a desired build definition from a person (not shown) desiring to have software installed onto a recipient computer 102. [0036]. Ream further teaches that the build generating platform may also include a build requester interface, such as a monitor 114 and keyboard 116 allowing a build requester to provide information regarding a desired build directly to the build

generating platform 106. [0036]. Ream further teaches that this information regarding a desired build is hereinafter referred to as a build definition. [0036]. Ream further teaches that a build definition may include identification of a desired operating system, as well as of specific software applications or updates of applications desired to be installed on a recipient computer 102. [0036]. Ream further teaches that the build definition is received from a build requester. [0044]. Ream further teaches that the build plan may then be transferred to a recipient computer 102. [0044]. Ream further teaches that the recipient computer 102 may then execute 206 the build plan. [0044]. Ream further teaches that the build plan may instruct the recipient computer to sequentially load software packages. [0044].

Hence, Ream teaches that a build generating software receives a build definition, which includes the identification of a desired operation system, as well as of specific software applications or updates of applications desired to be installed on a recipient computer, from a requester. The Examiner asserts that the build definition, as taught in Ream, teaches a first request as recited in claim 1. However, claim 1 recites that the first request includes a description of the development environment where the development environment includes hardware components and software components. Instead, the build definition, as taught by Ream, provides an identification of only software. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 1, 15, 26 and 37, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Furthermore, the Examiner asserts that it would be inherent that the build definition includes a description of the development environment including hardware components. Advisory Action, page 5. Appellant respectfully traverses the assertion that Ream inherently teaches receiving a first request comprising a description of the development environment and the software application to be developed, where the

development environment comprises hardware components and software components. The Examiner has not provided any basis in fact and/or technical reasoning to support the assertion that the build definition, as taught in Ream, includes a description of the development environment including hardware components. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner seems to imply that the build definition must include a reference that indicates the recipient computer. However, the Examiner has not provided any basis in fact and/or technical reasoning to support such reasoning as the recipient computer 102 is directly connected to the build generating platform 106 (as seen in Figure 2 of Ream) and hence there appears to be no need to identify the recipient computer in the build definition. Further, the Examiner has not provided any rationale as to how an identification of a recipient computer relates to a description of the development environment that includes hardware components and software components.

Further, in order for the Examiner to establish inherency, the Examiner must provide extrinsic evidence that must make clear that the build definition, as taught in Ream, includes a description of the development environment including both hardware components and software components, and that it would be so recognized by persons of ordinary skill. *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). Inherency, however, may not be established by probabilities or possibilities. *Id.* The mere fact that a certain thing may resolve from a given set of circumstances is not sufficient. *Id.* Therefore, the Examiner must support the inherency argument with objective evidence meeting the above requirements. Since the Examiner has not provided any such objective evidence, the Examiner has not presented a *prima facie* case of obviousness for rejecting claims 1, 15, 26 and 37. M.P.E.P. §2143.

Appellant further asserts that Ream and Bowman, taken singly or in combination, do not teach or suggest "reviewing said first request in accordance with control information for managing said first request" as recited in claim 1 and similarly

in claims 15, 26 and 37. The Examiner cites steps 200 and 202 in Figure 2 of Ream as teaching the above-cited claim limitation. Paper No. 5, page 3. Appellant respectfully traverses and asserts that Ream instead teaches that a build definition is received from a build requester and that a build plan for the recipient computer may be generated based upon pre-defined information related to the requested software programs. [0044]. There is no language in the passage, that describes steps 200 and 202, that teaches control information for managing a request. Neither is there any language in the passage, that describes steps 200 and 202, that teaches reviewing a request in accordance with control information for managing the request. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 1, 15, 26 and 37, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

In response to Appellant's above argument, the Examiner asserts that Ream inherently teaches the above-stated claim limitation. Advisory Action, pages 5-6. Appellant respectfully traverses. The Examiner has not provided any basis in fact and/or technical reasoning to support the assertion that Ream inherently teaches reviewing a request in accordance with control information for managing the request. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). That is, the Examiner must provide extrinsic evidence that must make clear that Ream inherently teaches reviewing a request in accordance with control information for managing the request, and that it would be so recognized by persons of ordinary skill. *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). Since the Examiner has not provided any such objective evidence, the Examiner has not presented a *prima facie* case of obviousness for rejecting claims 1, 15, 26 and 37. M.P.E.P. §2143.

Further, the Examiner states:

How else could a build be generated except by reviewing/managing the request? Advisory Action, page 6.

Appellant respectfully asserts that the Examiner is ignoring the language of the claim. Claim 1 recites reviewing a request in accordance with control information for managing the request. The claim does not simply recite reviewing a request and then managing the request. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 1, 15, 26 and 37, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Appellant further asserts that Ream and Bowman, taken singly or in combination, do not teach or suggest "assigning said first request to one or more developers" as recited in claim 1 and similarly in claims 15, 26 and 37. The Examiner cites step 202 in Figure 2 of Ream as teaching the above-cited claim limitation. Paper No. 5, page 3. Appellant respectfully traverses and asserts that Ream instead teaches that a build definition is received from a build requester and that a build plan for the recipient computer may be generated based upon pre-defined information related to the requested software programs. [0044]. There is no language in the passage, that describes step 202, that teaches assigning a request. Neither is there any language in the passage, that describes step 202, that teaches assigning a request to a developer. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 1, 15, 26 and 37, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

In response to the Appellant's above argument, the Examiner now asserts that the above-cited claim limitation is inherent in Ream and Bowman to teach the above-cited claim limitation. Advisory Action, page 6. Appellant respectfully traverses. The Examiner has not provided any basis in fact and/or technical reasoning to support the assertion that either Ream or Bowman inherently teaches assigning the request that includes a description of the development environment and the software

application to be developed to one or more developers. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). That is, the Examiner must provide extrinsic evidence that must make clear that either Ream or Bowman inherently teaches assigning the request that includes a description of the development environment and the software application to be developed to one or more developers, and that it would be so recognized by persons of ordinary skill. *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). Since the Examiner has not provided any such objective evidence, the Examiner has not presented a *prima facie* case of obviousness for rejecting claims 1, 15, 26 and 37. M.P.E.P. §2143.

Further, in connection with the Examiner's assertion that either Ream or Bowman inherently teach the above-cited claim limitation, the Examiner had previously asserted that the build definition in Ream corresponded to the "first request" as recited in claim 1. Advisory Action, page 5. Ream teaches that the build generating software 112 converts the build definition into a build plan which may include an executable file which can be executed by a recipient computer. [0036]. The Examiner has not provided any motivation for modifying Ream to instead of having the build generating software 112 converting the build definition into a build plan which may include an executable file which can be executed by a recipient computer but to have the build definition be assigned to a developer.² In order to establish a *prima facie* case of obviousness, the Examiner must provide a suggestion or motivation, either in the references themselves, the knowledge of one of ordinary skill in the art, or, in some cases the nature of the problem to be solved, to modify the reference or to combine reference teachings. See *In re Dembiczak*, 175 F.3d 1994, 1999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). The Examiner has not provided such motivation for modifying Ream as discussed above and hence has not established a *prima facie* case of obviousness in rejecting claims 1, 15, 26 and 37.

² The above-cited claim limitation recites "assigning said first request to one or more developers"

M.P.E.P. §2143.

Further, in connection with the Examiner's assertion that either Ream or Bowman inherently teaches the above-cited claim limitation, Bowman teaches management teams with responsibilities for key management functions. Column 11, lines 28-30. The Examiner has not provided any motivation for modifying Bowman to assign a request that includes a description of the development environment and the software application to be developed to one or more developers. As stated above, in order to establish a *prima facie* case of obviousness, the Examiner must provide a suggestion or motivation, either in the references themselves, the knowledge of one of ordinary skill in the art, or, in some cases the nature of the problem to be solved, to modify the reference or to combine reference teachings. *See In re Dembiczak*, 175 F.3d 1994, 1999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). The Examiner has not provided such motivation for modifying Bowman as discussed above and hence has not established a *prima facie* case of obviousness in rejecting claims 1, 15, 26 and 37. M.P.E.P. §2143.

Appellant further asserts that Ream and Bowman, taken singly or in combination, do not teach or suggest "establishing said development environment upon said processing said first request" as recited in claim 1 and similarly in claims 15, 26 and 37. The Examiner cites paragraph 0050 of Ream as teaching the above-cited claim limitation. Paper No. 5, page 3. Appellant respectfully traverses and asserts that Ream instead teaches that a build plan includes references to data installation packages causing the sequential execution of installation program command lines. [0049]. Ream further teaches that when dependencies exist, the build generating software can determine whether additional software services or programs are required to be installed for the requested software to function correctly. [0049]. Hence, Ream teaches installing software onto a computer. However, there is no language in the cited passage that teaches a development environment that

includes hardware components and software components. Neither is there any language in the cited passage that teaches establishing such a development environment upon processing a request that includes a description of the development environment and a software application to be developed. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 1, 15, 26 and 37, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

In response to Appellant's above argument, the Examiner asserts that a build generating station is a development environment. Advisory Action, page 7. Ream teaches that a build generating station includes software for generating build plans, the build plans containing instructions for executing software installation programs. Abstract. Ream further teaches that the present invention may be adapted to a system allowing a web hosting provider (not shown) to locate build requesters in a limited number of locations, while allowing the same build requesters to control software installations at a variety of diverse locations. [0080]. Ream further teaches that by locating build servers 1402a, b, . . . near recipient hosts, the large amounts of data required for software installation programs can be located near recipient computers 1404a, b, . . . , while build generating stations 1406a, b, . . . need only be located at a central location or locations, allowing build requesters to be utilized as efficiently as possible. [0080]. Ream further teaches that alternatively a build generating station 1406 can be used as a server, with a build requester connecting to the build generating station 1406 through an Internet appliance 1408 (any means of accessing the Internet, such as a personal computer, box top converter, etc.) via the Internet 1410. [0080]. As indicated above, claim 1 recites "receiving a first request comprising a description of said development environment..." As stated above, the examiner asserts that a build generating station (as illustrated in Figure 14 and discussed above) is a development environment. Advisory Action, page 7. However, there is no language in Ream that teaches receiving a request that includes a description of the build

generating station. Neither is there any language in Ream that teaches establishing the development environment upon processing the request. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 1, 15, 26 and 37, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Appellant further asserts that Ream and Bowman, taken singly or in combination, do not teach or suggest "monitoring said development environment asynchronously for violations of conditions established by said control information" as recited in claim 1 and similarly in claims 15, 26 and 37. The Examiner cites paragraph 0044 of Ream as teaching the above-cited claim limitation. Paper No. 5, page 4. Appellant respectfully traverses and asserts that Ream instead teaches that once the last software package has been installed, the recipient computer may verify the completion of the execution of the build plan (instructs the recipient computer to sequentially load software packages). [0044]. There is no language in the cited passage that teaches a development environment that includes hardware components and software components. Neither is there any language in the cited passage that teaches monitoring such a development environment asynchronously. Neither is there any language in the cited passage that teaches monitoring such a development environment asynchronously for violations of conditions. Neither is there any language in the cited passage that teaches monitoring such a development environment asynchronously for violations of conditions established by control information. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 1, 15, 26 and 37, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

In response to the Appellant's above argument, the Examiner now asserts that Ream inherently teaches monitoring the development environment asynchronously

for violations of conditions established by the control information. Advisory Action, page 7. Appellant respectfully traverses. The Examiner has not provided any basis in fact and/or technical reasoning to support the assertion that Ream inherently teaches monitoring the development environment asynchronously for violations of conditions established by the control information. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). That is, the Examiner must provide extrinsic evidence that must make clear that Ream inherently teaches monitoring the development environment asynchronously for violations of conditions established by the control information, and that it would be so recognized by persons of ordinary skill. *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). Since the Examiner has not provided any such objective evidence, the Examiner has not presented a *prima facie* case of obviousness for rejecting claims 1, 15, 26 and 37. M.P.E.P. §2143.

Further, in connection with Appellant's above argument, the Examiner focuses on the language in Bowman that teaches testing the system to ensure that the requirements are fulfilled (column 2, lines 28-29; column 2, lines 50-54). However, the Examiner has provided no basis in fact and/or technical reasoning (which the Examiner must do) to support her interpretation of "testing the system" in Bowman to be equivalent to monitoring a development environment asynchronously for violations of conditions established by control information, as recited in claim 1. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claims 1, 15, 26 and 37. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

Further, in connection with Appellant's above argument, the Examiner focuses on the language in Ream that teaches that once the last software package has been installed, the recipient computer may verify the completion of the execution of the build plan (paragraph 0044). However, the Examiner has provided no basis in fact

and/or technical reasoning (which the Examiner must do) to support her interpretation of "verify" in Ream to be equivalent to monitoring a development environment asynchronously for violations of conditions established by control information, as recited in claim 1. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claims 1, 15, 26 and 37. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

Further, in connection with Appellant's above argument, the Examiner focuses on the language in Bowman that teaches using test coverage measurement tools (column 2, lines 50-54). However, the Examiner has provided no basis in fact and/or technical reasoning (which the Examiner must do) to support her interpretation of "test coverage measurement tools" in Bowman to be equivalent to monitoring a development environment asynchronously for violations of conditions established by control information, as recited in claim 1. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claims 1, 15, 26 and 37. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

Further, in connection with Appellant's above argument, the Examiner focuses on column 11, lines 1-5 and 28-44 in Bowman. However, the Examiner has provided no basis in fact and/or technical reasoning (which the Examiner must do) to support the assertion that these passages in Bowman teach monitoring a development environment asynchronously for violations of conditions established by control information, as recited in claim 1. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claims 1, 15, 26 and 37. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir.

2002).

3. Claims 2-14, 16-25, 27-36 and 38-47 are patentable over Ream in view of Bowman for at least the reasons that claims 1, 15, 26 and 37 are patentable over Ream in view of Bowman.

Claims 2-14 depend from claim 1 and hence are patentable over Ream in view of Bottom for at least the reasons that claim 1 is patentable over Ream in view of Bottom as discussed above in Section A.2. Claims 16-25 depend from claim 15 and hence are patentable over Ream in view of Bottom for at least the reasons that claim 15 is patentable over Ream in view of Bottom as discussed above in Section A.2. Claims 27-36 depend from claim 26 and hence are patentable over Ream in view of Bottom for at least the reasons that claim 26 is patentable over Ream in view of Bottom as discussed above in Section A.2. Claims 38-47 depend from claim 37 and hence are patentable over Ream in view of Bottom for at least the reasons that claim 26 is patentable over Ream in view of Bottom as discussed above in Section A.2.

4. Claims 2, 16, 27 and 38 are patentable over Ream in view of Bowman.

Appellant respectfully asserts that Ream and Bowman, taken singly or in combination, do not teach or suggest "identifying a violation of a condition; and notifying a developer of said violated condition" as recited in claim 2 and similarly in claims 16, 27 and 38. The Examiner cites paragraphs 0044 and 0066 of Ream as teaching the above-cited claim limitations. Paper No. 5, pages 5-6. Appellant respectfully traverses and asserts that Ream instead teaches that once the last software package has been installed, the recipient computer may verify the completion of the execution of the build plan (instructs the recipient computer to sequentially load software packages). [0044]. Ream further teaches that the build plan may write an entry to an event log evidencing the success or failure of the specific installation. [0066]. Ream further teaches that if the build plan executed successfully, the build

requester or another person can be notified of the success of the execution of the build plan. [0044]. Hence, Ream teaches writing to an entry in a log evidencing the success or failure of an installation. Indicating the success or failure of an installation is not the same as identifying a violation of a condition. Furthermore, Ream teaches notifying a person if the build plan executed successfully. This is not the same as notifying a developer of a violated condition. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 2, 16, 27 and 38, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

In response to Appellant's above argument, the Examiner states:

Inherently a 'condition' of a build plan is to build software that may successfully be installed on a hardware device. In this case, the recipient computer monitors for violations of properly defined and build software. (Ream: [0044], 'Once the software package has been installed, the recipient computer may verify (monitor for violations)...', [0066], '...build plan may write an entry to an event log evidencing the success or failure [violation of a condition]...'). Advisory Action, pages 8-9.

Appellant respectfully traverses the assertion that Ream inherently teaches identifying a violation of a condition. The Examiner has not provided any basis in fact and/or technical reasoning to support the assertion that Ream inherently teaches identifying a violation of a condition. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). That is, the Examiner must provide extrinsic evidence that must make clear that Ream inherently teaches identifying a violation of a condition, and that it would be so recognized by persons of ordinary skill. *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). Since the Examiner has not provided any such objective evidence, the Examiner has not presented a *prima facie* case of obviousness for rejecting claims 2, 16, 27 and 38. M.P.E.P. §2143.

Further, the Examiner has not provided any basis in fact and/or technical reasoning to support her interpretation of "condition", as recited in claim 2, to mean "successfully be installed on a hardware device." *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). Advisory Action, page 8. The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claims 1, 15, 26 and 37. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

Further, in connection with Appellant's above argument, the Examiner focuses on the language in Ream that teaches that once the last software package has been installed, the recipient computer may verify the completion of the execution of the build plan (paragraph 0044). Advisory Action, page 9. However, the Examiner has provided no basis in fact and/or technical reasoning (which the Examiner must do) to support her interpretation of "verify" in Ream to be equivalent to identifying a violation of a condition, as recited in claim 2. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claims 2, 16, 27 and 38. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

Further, in connection with Appellant's above argument, the Examiner focuses on the language in Ream that teaches that the build plan may write an entry to an event log evidencing the success or failure of the specific installation (paragraph 0066). Advisory Action, page 9. However, the Examiner has provided no basis in fact and/or technical reasoning (which the Examiner must do) to support her interpretation of this phrase in Ream to be equivalent to identifying a violation of a condition, as recited in claim 2. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for

rejecting claims 2, 16, 27 and 38. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

Further, in connection with Appellant's above argument, the Examiner focuses on the language in Ream that teaches that if the build was unsuccessful, such as the failure of a software package to install without errors, the build requester can be notified that the build was not successful (paragraph 0044). Advisory Action, page 9. However, the Examiner has provided no basis in fact and/or technical reasoning (which the Examiner must do) to support her interpretation of this phrase in Ream to be equivalent to notifying a developer of the violated condition, as recited in claim 2. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claims 2, 16, 27 and 38. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

5. Claims 3, 17, 28 and 39 are patentable over Ream in view of Bowman.

Appellant respectfully asserts that Ream and Bowman, taken singly or in combination, do not teach or suggest "inserting information of said violation of said condition in a report; and issuing said report to a customer " as recited in claim 3 and similarly in claims 17, 28 and 39. The Examiner cites paragraphs 0044 and 0066 of Ream as teaching the above-cited claim limitations. Paper No. 5, page 6. Appellant respectfully traverses and asserts that Ream instead teaches that the build plan may write an entry to an event log evidencing the success or failure of the specific installation. [0066]. Ream further teaches that if the build plan executed successfully, the build requester or another person can be notified of the success of the execution of the build plan. [0044]. There is no language in the cited passages that teaches a report. Neither is there any language in the cited passages that teaches inserting information of a violation of a condition in a report. Neither is there any

language in the cited passages that teaches issuing a report to a customer. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 3, 17, 28 and 39, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

In connection with Appellant's above argument, the Examiner focuses on the language in Ream that teaches that if the build was unsuccessful, such as the failure of a software package to install without errors, the build requester can be notified that the build was not successful (paragraph 0044). Advisory Action, page 9. However, the Examiner has provided no basis in fact and/or technical reasoning (which the Examiner must do) to support her interpretation of this phrase in Ream to be equivalent to inserting information of the violation of the condition in a report, as recited in claim 3. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claims 3, 17, 28 and 39. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

Further, in connection with Appellant's above argument, the Examiner focuses on the language in Ream that teaches that the build plan may write an entry to an event log evidencing the success or failure of the specific installation (paragraph 0066). Advisory Action, page 9. However, the Examiner has provided no basis in fact and/or technical reasoning (which the Examiner must do) to support her interpretation of this phrase in Ream to be equivalent to inserting information of the violation of the condition in a report, as recited in claim 3. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claims 3, 17, 28 and 39. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

Further, in connection with Appellant's above argument, the Examiner again focuses on the language in Ream that teaches that if the build was unsuccessful, such as the failure of a software package to install without errors, the build requester can be notified that the build was not successful (paragraph 0044). Advisory Action, page 10. However, the Examiner has provided no basis in fact and/or technical reasoning (which the Examiner must do) to support her interpretation of this phrase in Ream to be equivalent to issuing a report to a customer, as recited in claim 3. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claims 3, 17, 28 and 39. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

6. Claims 4, 18, 29 and 40 are patentable over Ream in view of Bowman.

Appellant respectfully asserts that Ream and Bowman, taken singly or in combination, do not teach or suggest "inserting information on a status of said development environment in a report; and issuing said report to a customer" as recited in claim 4 and similarly in claims 18, 29 and 40. The Examiner cites paragraphs 0044 and 0064 of Ream as teaching the above-cited claim limitations. Paper No. 5, page 6. Appellant respectfully traverses and asserts that Ream instead teaches that once a build plan has started on a recipient computer, the build plan may cause an event log to be created by starting or opening a file on the recipient computer. [0064]. Ream further teaches that the purpose of the event log is to be a diary which the build plan may use to record specific events which occur during the execution of the build plan. [0064]. Ream further teaches that the event log may be used to contain messages related to the success or failure of the installation of individual software packages or of errors which occur during execution of the build plan. [0064]. Ream further teaches that if the build plan executed successfully, the build requester or another person can be notified of the success of the execution of the build plan. [0044].

Hence, Ream teaches logging messages related to the success or failure of the installation of individual software packages or of errors during execution of the build plan. Ream further teaches notifying an individual of the success in the execution of the build plan. However, there is no language in the cited passages that teaches a development environment that includes hardware components and software components. Neither is there any language in the cited passages that teaches a report. Neither is there any passage in the cited passage that teaches inserting information on the status of such a development environment in a report. Neither is there any language in the cited passages of issuing a report to a customer. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 4, 18, 29 and 40, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

In connection with Appellant's above argument, the Examiner focuses on the language in Ream that teaches that if the build was unsuccessful, such as the failure of a software package to install without errors, the build requester can be notified that the build was not successful (paragraph 0044). Advisory Action, page 10. However, the Examiner has provided no basis in fact and/or technical reasoning (which the Examiner must do) to support her interpretation of this phrase in Ream to be equivalent to inserting information on a status of the development environment in a report, as recited in claim 4. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claims 4, 18, 29 and 40. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

Further, in connection with Appellant's above argument, the Examiner focuses on the language in Ream that teaches that once a build plan has stated on the recipient computer, the build plan may cause an event log to be created by starting or opening a

file on the recipient computer...the purpose of an event log is to be a diary which the build plan may use to record specific events which occur during the execution of the build plan...the event log may be used to contain messages related to the success or failure of the installation of individual software packages, or of errors which occur during execution of the build plan...an event log may also be used to contain status values or flags used during the execution of the build plan (paragraph 0064). Advisory Action, page 10. However, the Examiner has provided no basis in fact and/or technical reasoning (which the Examiner must do) to support her interpretation of this paragraph in Ream to be equivalent to inserting information on a status of the development environment in a report, as recited in claim 4. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner had previously stated that a build generating station is a development environment. Advisory Action, page 7. However, there is no language in paragraph 0064 of Ream that teaches inserting information on the status of the build generating station in a report. The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claims 4, 18, 29 and 40. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

Further, in connection with Appellant's above argument, the Examiner focuses on the language in Ream that teaches that if the build was unsuccessful, such as the failure of a software package to install without errors, the build requester can be notified that the build was not successful (paragraph 0044). Advisory Action, pages 10-11. However, the Examiner has provided no basis in fact and/or technical reasoning (which the Examiner must do) to support her interpretation of this phrase in Ream to be equivalent to issuing the report to a customer, as recited in claim 4. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claims 4, 18, 29 and 40. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

7. Claims 5, 19, 30 and 41 are patentable over Ream in view of Bowman.

Appellant respectfully asserts that Ream and Bowman, taken singly or in combination, do not teach or suggest "wherein said control information comprises one or more of the following: a statement of work, a profile of a server implemented in said development environment, a profile of a network component implemented in said development environment, and a profile of said development environment" as recited in claim 5 and similarly in claims 19, 30 and 41. The Examiner cites paragraphs 0036, 0038 and 0040 of Ream as teaching the above-cited claim limitations. Paper No. 5, page 7. Appellant respectfully traverses.

Ream instead teaches that the build generating software converts a build definition (includes identification of an operating system, as well as specific software applications or updates of applications desired to be installed) into a build plan which may include an executable file which can be executed by a recipient computer. [0036]. Ream further teaches that the recipient computer may be intended to be a server. [0038]. Ream further teaches that if the build server and the recipient computer are not co-located, an Internet connection may be provided, such that data can be transferred from the build server to the recipient computer over the Internet. [0040]. Hence, Ream teaches transferring data from a server to a recipient computer over the Internet. Ream further teaches converting a build definition into an executable file. There is no language in the cited passages that teaches control information that includes a statement of work. Neither is there any language in the cited passages that teaches a development environment that includes hardware components and software components. Neither is there any language in the cited passages that teaches control information that includes a profile of a server implemented in such a development environment. Neither is there any language in the cited passages that teaches control information that includes a profile of a network component implemented in such a development environment. Neither is there any

language in the cited passages that teaches control information that includes a profile of such a development environment. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 5, 19, 30 and 41, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

In response to Appellant's above argument, the Examiner construes "converting a build definition into a build plan" in Ream as being equivalent to control information that includes a statement of work. Advisory Action, page 11. The Examiner has provided no basis in fact and/or technical reasoning (which the Examiner must do) for such an interpretation. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claims 5, 19, 30 and 41. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

Further, the Examiner had previously cited "build definition", as used in Ream, as being equivalent to the first request, as recited in claim 1. Advisory Action, pages 2-3. Now the Examiner states that a build definition, as used in Ream, is equivalent to statement of work. Advisory Action, page 7. Under the doctrine of claim differentiation, a "first request" and a "statement of work" must be two different elements. The Examiner cannot cite the same element in Ream as teaching these two different elements. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 5, 19, 30 and 41, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Further, in connection with Appellant's above argument, the Examiner continues to transmogrify the text of Ream in order to conclude that Ream teaches the above-cited claim limitation. The Examiner states:

Ream: [0036], 'The build generating software converts a build definition (statement of work) into a build plan (control information)...', [0038], 'The recipient computer may be intended to be a server (profile of a server)...', [004], 'If the build server and the recipient computer are not co-located, an Internet connection (profile of a network component) may be provided, such that data can be transferred from the build server to the recipient computer over the Internet.'). Advisory Action, page 11.

Appellant respectfully asserts that the Examiner has provided no basis in fact and/or technical reasoning (which the Examiner must do) to support her interpretation of a "build definition" being a statement of work or a "build plan" being control information or the phrase "the recipient computer may be intended to be a server" as being a profile of a server implemented in the development environment or the phrase "if the build server and the recipient computer are not co-located, an Internet connection may be provided, such that data can be transferred from the build server to the recipient computer over the Internet" as being a profile of a network component implemented in the development environment. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claims 5, 19, 30 and 41. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

8. Claims 6, 20, 31 and 42 are patentable over Ream in view of Bowman.

Appellant respectfully asserts that Ream and Bowman, taken singly or in combination, do not teach or suggest "wherein said statement of work comprises standards for hardware components and software components in said target

environment" as recited in claim 6. The Examiner cites paragraphs 0036 and 0050 of Ream as teaching the above-cited claim limitation. Paper No. 5, page 7. Appellant respectfully traverses and asserts that Ream instead teaches that the build generating software converts a build definition (includes identification of an operating system, as well as specific software applications or updates of applications desired to be installed) into a build plan which may include an executable file which can be executed by a recipient computer. [0036]. Ream further teaches that a sequence can be determined by using the "install first" list to ensure that all programs or services which are required to be installed first are installed before a requested program. [0050]. There is no language in the cited passages that teaches a statement of work. Neither is there any language in the cited passages that teaches a statement of work that includes standards for hardware components and software components. Neither is there any language in the cited passages that teaches a statement of work that includes standards for hardware components and software components in a target environment. Neither is there any language in the cited passages that teaches a statement of work that includes contract conditions. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 6, 20, 31 and 42, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

In response to Appellant's above argument, the Examiner asserts that a build definition, as taught in Ream, is a statement of work that inherently includes standards for hardware components and software components in the target environment. Advisory Action, page 12. Again, the Examiner has provided no basis in fact and/or technical reasoning (which the Examiner must do) to support such an interpretation. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). That is, the Examiner must provide extrinsic evidence that must make clear that a build definition, as taught in Ream, is a statement of work that inherently includes standards for hardware components and software components in the target

environment, and that it would be so recognized by persons of ordinary skill. *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claims 6, 20, 31 and 42. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

Further, the Examiner had previously cited "build definition", as used in Ream, as being equivalent to the first request, as recited in claim 1. Advisory Action, pages 2-3. Now the Examiner states that a build definition, as used in Ream, is equivalent to statement of work. Advisory Action, page 12. Under the doctrine of claim differentiation, a "first-request" and a "statement of work" must be two different elements. The Examiner cannot cite the same element in Ream as teaching these two different elements. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 6, 20, 31 and 42, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

Further, in connection with Appellant's above argument, the Examiner focuses on language in paragraphs 0036 and 0050 in Ream as teaching a statement of work that comprises standards for hardware components and software components in a target environment. Advisory Action, page 12. However, the Examiner has provided no basis in fact and/or technical reasoning to support her interpretation of these passages in Ream as teaching a statement of work that comprises standards for hardware components and software components in a target environment, as recited in claim 6. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claims 6, 20, 31 and 42. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

Appellant further asserts that Ream and Bowman, taken singly or in combination, do not teach or suggest "wherein said statement of work comprises contract conditions" as recited in claim 6 and similarly in claims 20, 31 and 42. The Examiner cites column 30, line 48 – column 31, line 3 of Bowman as teaching the above-cited claim limitation. Paper No. 5, page 8. Appellant respectfully traverses and asserts that Bowman instead teaches a service level agreement between the services management group and the developers. There is no language in the cited passage that the service level agreement includes a statement of work. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 6, 20, 31 and 42, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

In connection with Appellant's above argument, the Examiner focuses on the term "Service Level Agreement" in column 30, line 48 – column 31, line 3 of Bowman as teaching contract conditions. Advisory Action, page 12. The Examiner has not provided any basis in fact and/or technical reasoning (which the Examiner must do) to support such an interpretation. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claims 6, 20, 31 and 42. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

9. Claims 7, 21, 32 and 43 are patentable over Ream in view of Bowman.

Appellant respectfully asserts that Ream and Bowman, taken singly or in combination, do not teach or suggest "wherein said server profile comprises a description of said server implemented in said development environment" as recited in claim 7 and similarly in claims 21, 32 and 43. The Examiner cites paragraphs 0036 and 0038 of Ream as teaching the above-cited claim limitation. Paper No. 5, page 8.

Appellant respectfully traverses and asserts that Ream instead teaches that a build definition includes an identification of a desired operating system, as well as specific software applications or updates of applications desired to be installed on a recipient computer. [0036]. Ream further teaches that the recipient computer is a computer onto which it is desired to install software. [0038]. Ream further teaches that the recipient computer may be intended to be a server used to host an application, however the end-usage of the recipient computer is limited only by the ability of the build generating software to generate build plans for installing desired software. [0038]. There is no language in the cited passages that teaches a server profile. Neither is there any language in the cited passages that teaches a development environment that includes hardware components and software components. Neither is there any language in the cited passages that teaches a description of a server implemented in such a development environment. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 7, 21, 32 and 43, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

In response to Appellant's above argument, the Examiner focuses on language in paragraphs 0036 and 0038 in Ream as teaching a server profile that comprises a description of the server implemented in the development environment. Advisory Action, page 13. However, the Examiner has provided no basis in fact and/or technical reasoning (which the Examiner must do) to support her interpretation of these passages in Ream as teaching a server profile that comprises a description of the server implemented in the development environment, as recited in claim 7. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claims 7, 21, 32 and 43. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

10. Claims 8, 22, 33 and 44 are patentable over Ream in view of Bowman.

Appellant respectfully asserts that Ream and Bowman, taken singly or in combination, do not teach or suggest "wherein said network component profile comprises a description of said network component implemented in said development environment" as recited in claim 8 and similarly in claims 22, 33 and 44. The Examiner cites paragraphs 0036 and 0038 of Ream as teaching the above-cited claim limitation. Paper No. 5, page 8. Appellant respectfully traverses. As stated above, Ream instead teaches that a build definition includes an identification of a desired operating system, as well as specific software applications or updates of applications desired to be installed on a recipient computer. [0036]. Ream further teaches that the recipient computer is a computer onto which it is desired to install software. [0038]. Ream further teaches that the recipient computer may be intended to be a server used to host an application, however the end-usage of the recipient computer is limited only by the ability of the build generating software to generate build plans for installing desired software. [0038]. There is no language in the cited passages that teaches a network computer profile. Neither is there any language in the cited passages that teaches a development environment that includes hardware components and software components. Neither is there any language in the cited passages that teaches a description of a network component implemented in such a development environment. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 8, 22, 33 and 44, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

In response to Appellant's above argument, the Examiner focuses on language in paragraphs 0036 and 0038 in Ream as teaching a network profile that comprises a description of the network component implemented in the development environment. Advisory Action, pages 13-14. However, the Examiner has provided no basis in fact

and/or technical reasoning (which the Examiner must do) to support her interpretation of these passages in Ream as teaching a network profile that comprises a description of the network component implemented in the development environment, as recited in claim 8. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claims 8, 22, 33 and 44. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

11. Claims 9, 23, 34 and 45 are patentable over Ream in view of Bowman.

Appellant respectfully asserts that Ream and Bowman, taken singly or in combination, do not teach or suggest "wherein said profile of said development environment comprises a description of said hardware components and said software components of said development environment, wherein said profile of said development environment comprises a description of said software application to be developed" as recited in claim 9 and similarly in claims 23, 34 and 45. The Examiner cites paragraph 0044 of Ream as teaching the above-cited claim limitation. Paper No. 5, page 9. Appellant respectfully traverses. Ream instead teaches that a build definition (includes identification of a desired operating system, as well as specific software applications or updates of applications desired to be installed on a recipient computer) is received from a build requester (person desires to have software installed on a recipient computer). [0044]. There is no language in the cited passage that teaches a development environment that includes hardware components and software components. Neither is there any language in the cited passage that teaches a profile of such a development environment. Neither is there any language in the cited passage that teaches a profile of such a development environment that includes a description of the hardware components and the software components of the development environment. Neither is there any language in the cited passage that teaches a profile of such a development environment that includes a description of the

software application to be developed. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 9, 23, 34 and 45, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

In response to Appellant's above argument, the Examiner focuses on language in paragraph 044 (and in particular a build definition) in Ream as teaching a profile of the development environment that comprises a description of the hardware components and the software components of the development environment, where the profile of the development environment comprises a description of the software application to be developed. Advisory Action, page 14. However, the Examiner has provided no basis in fact and/or technical reasoning to support her interpretation of this passage in Ream as teaching a profile of the development environment that comprises a description of the hardware components and the software components of the development environment, where the profile of the development environment comprises a description of the software application to be developed, as recited in claim 9. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claims 9, 23, 34 and 45. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

12. Claim 10 is patentable over Ream in view of Bowman.

Appellant respectfully asserts that Ream and Bowman, taken singly or in combination, do not teach or suggest "wherein said processing said first request comprises updating a profile of a server implemented in said development environment, wherein said server profile comprises a description of said server implemented in said development environment" as recited in claim 10. The Examiner cites paragraphs 0045 and 0081 of Ream as teaching the above-cited claim limitations. Paper No. 5, page 9. Appellant respectfully traverses.

Ream instead teaches that the generation of the plan may involve selecting software components to be installed on the recipient computer, and grouping pre-determined installation packages together to form a build plan. [0045]. Ream further teaches that a centralized build information server is allowed to be maintained. [0081]. Ream further teaches that the centralized build information server may allow information used in build generating stations to be controlled at a single point. [0081]. Ream further teaches that data defining parameters and installation instructions for specific software packages may become obsolete over time. [0081]. Ream further teaches that the parameters for the installation of the new revision may differ from the previous version, requiring that data used by each build generating station be updated to reflect the new revision information. [0081]. There is no language in the cited passages that teaches a development environment that includes hardware components and software components. Neither is there any language in the cited passages that teaches updating a profile of a server in such a development environment. Neither is there any language in the cited passages that teaches a server profile that includes a description of the server implemented in such a development environment. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claim 10, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

In response to Appellant's above argument, the Examiner states that a plan generation inherently comprises updating a profile/describing a server that may be implemented. Advisory Action, page 14. Appellant respectfully traverses the assertion that Ream inherently teaches processing a request that comprises updating a profile of a server implemented in the development environment, where the server profile comprises a description of the server implemented in the development environment. The Examiner must provide a basis in fact and/or technical reasoning (which the Examiner must do) to support the assertion that Ream inherently teaches

processing a request that comprises updating a profile of a server implemented in the development environment, where the server profile comprises a description of the server implemented in the development environment. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). That is, the Examiner must provide extrinsic evidence that must make clear that Ream inherently teaches processing a request that comprises updating a profile of a server implemented in the development environment, where the server profile comprises a description of the server implemented in the development environment, and that it would be so recognized by persons of ordinary skill. *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). Since the Examiner has not provided any such objective evidence, the Examiner has not presented a *prima facie* case of obviousness for rejecting claim 10. M.P.E.P. §2143.

Further, in response to Appellant's above argument, the Examiner focuses on language in paragraphs 0045 and 0081 in Ream as teaching processing a request that comprises updating a profile of a server implemented in the development environment, where the server profile comprises a description of the server implemented in the development environment. Advisory Action, page 15. However, the Examiner has provided no basis in fact and/or technical reasoning (which the Examiner must do) to support her interpretation of these passages in Ream as teaching processing a request that comprises updating a profile of a server implemented in the development environment, where the server profile comprises a description of the server implemented in the development environment, as recited in claim 10. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claim 10. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

13. Claim 11 is patentable over Ream in view of Bowman.

Appellant respectfully asserts that Ream and Bowman, taken singly or in combination, do not teach or suggest "wherein said processing said first request comprises updating a profile of a network component implemented in said development environment, wherein said network component profile comprises a description of said network component implemented in said development environment" as recited in claim 11. The Examiner cites paragraphs 0047, 0048 and 0081 of Ream as teaching the above-cited claim limitations. Paper No. 5, page 10. Appellant respectfully traverses.

Ream instead teaches that the recipient computer may be intended to access data necessary to install software onto the recipient computer via a network connection as well as a destination address where the data can be accessed. [0047]. Ream further teaches that the installation of the software across a network may require the presence of authentication means on the recipient computer. [0048]. Ream further teaches that a centralized build information server is allowed to be maintained. [0081]. Ream further teaches that the centralized build information server may allow information used in build generating stations to be controlled at a single point. [0081]. Ream further teaches that data defining parameters and installation instructions for specific software packages may become obsolete over time. [0081]. Ream further teaches that the parameters for the installation of the new revision may differ from the previous version, requiring that data used by each build generating station be updated to reflect the new revision information. [0081]. There is no language in the cited passages that teaches a development environment that includes hardware components and software components. Neither is there any language in the cited passages that teaches updating a profile of a network component implemented in such a development environment. Neither is there any language in the cited passages that teaches a network component profile that includes a description of a network component implemented in such a development environment. Therefore, the Examiner has not presented a *prima facie* case of

obviousness in rejecting claim 11, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

In response to Appellant's above argument, the Examiner relies upon inherency and transmogrification of the Abstract and paragraphs 0047, 0048 and 0081 of Ream to conclude that the above-cited claim limitation is taught by Ream. Advisory Action, pages 15-16. Appellant respectfully traverses the assertion that Ream inherently teaches any clause in the above-cited claim limitation. The Examiner must provide a basis in fact and/or technical reasoning to support the assertion that Ream inherently teaches any clause in the above-cited claim limitation. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). That is, the Examiner must provide extrinsic evidence that must make clear that Ream inherently teaches any clause in the above-cited claim limitation, and that it would be so recognized by persons of ordinary skill. *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). Since the Examiner has not provided any such objective evidence, the Examiner has not presented a *prima facie* case of obviousness for rejecting claim 11. M.P.E.P. §2143.

Further, in response to Appellant's above argument, the Examiner focuses on language in the Abstract and paragraphs 0047³, 0048 and 0081 in Ream as teaching where the processing the first request comprises updating a profile of a network component implemented in the development environment, where the network component profile comprises a description of the network component implemented in

³ For example, the Examiner focuses on the phrase in paragraph 0047 in Ream "the recipient computer 102 may be intended to access data necessary to install software onto the recipient computer via a network connection, information necessary for defining a recipient computer's identity on a network, as well as a destination address where the data can be accessed, may need to be identified and provided to the recipient computer" as teaching update a profile of a network component implemented in the development environment. There are no words directed to a profile or directed to updating a profile. The Examiner continues to make interpretations that seem baseless.

the development environment. Advisory Action, page 16. However, the Examiner has provided no basis in fact and/or technical reasoning (which the Examiner must do) to support her interpretation of these passages in Ream as teaching where the processing the first request comprises updating a profile of a network component implemented in the development environment, where the network component profile comprises a description of the network component implemented in the development environment, as recited in claim 11. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claim 11. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

14. Claim 12 is patentable over Ream in view of Bowman.

Appellant respectfully asserts that Ream and Bowman, taken singly or in combination, do not teach or suggest "wherein said processing said first request comprises updating profile of said development environment, wherein said profile of said development environment comprises a description of said hardware components and said software components of said development environment, wherein said profile of said development environment comprises a description of said software application to be developed" as recited in claim 12. The Examiner cites paragraphs 0015, 0045 and 0081 of Ream as teaching the above-cited claim limitations. Paper No. 5, page 11. Appellant respectfully traverses.

Ream instead teaches a build library that contains installation programs provided by software suppliers where the installation programs each configure and install a specific software package onto a recipient computer. [0015]. Ream further teaches that a build generating station may include build generating software, which generates build plans based on software identified as desired to be installed on a recipient computer. [0015]. Ream further teaches that the generation of the plan involves selecting software components to be installed on the recipient computer and

grouping pre-determined installation packages together to form a build plan. [0045]. Ream further teaches that the process may update information associated with the build generating program to ensure that current information is used for a build. [0045]. Ream further teaches that this update may be accomplished by synchronizing a local build information database. [0045]. Ream further teaches that a centralized build information server is allowed to be maintained. [0081]. Ream further teaches that the centralized build information server may allow information used in build generating stations to be controlled at a single point. [0081]. Ream further teaches that data defining parameters and installation instructions for specific software packages may become obsolete over time. [0081]. Ream further teaches that the parameters for the installation of the new revision may differ from the previous version, requiring that data used by each build generating station be updated to reflect the new revision information. [0081].

There is no language in the cited passages that teaches a development environment that includes hardware components and software components. Neither is there any language in the cited passages that teaches updating a profile of such a development environment. Neither is there any language in the cited passages that teaches a profile of such a development environment that includes a description of the hardware components and the software components of such a development environment. Neither is there any language in the cited passages that teaches a profile of such a development environment that includes a description of a software application to be developed. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claim 12, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

In response to Appellant's above argument, the Examiner asserts that information associated with the build generating program inherently comprises a

description of said software application to be developed. Advisory Action, page 17. Appellant respectfully traverses the assertion that Ream inherently teaches a profile of the development environment that comprise a description of the software application to be developed, as recited in claim 12. The Examiner must provide a basis in fact and/or technical reasoning to support the assertion that Ream inherently teaches a profile of the development environment that comprise a description of the software application to be developed. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). That is, the Examiner must provide extrinsic evidence that must make clear that Ream inherently teaches a profile of the development environment that comprise a description of the software application to be developed, and that it would be so recognized by persons of ordinary skill. *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). Since the Examiner has not provided any such objective evidence, the Examiner has not presented a *prima facie* case of obviousness for rejecting claim 12. M.P.E.P. §2143.

Further, in response to Appellant's above argument, the Examiner focuses on language in paragraphs 0015, 0045 and 0081 in Ream as teaching where the processing the first request comprises updating profile of the development environment, where the profile of the development environment comprises a description of the hardware components and the software components of the development environment, where the profile of the development environment comprises a description of the software application to be developed. Advisory Action, page 17. However, the Examiner has provided no basis in fact and/or technical reasoning (which the Examiner must do) to support her interpretation of these passages in Ream as teaching processing the first request comprises updating profile of the development environment, where the profile of the development environment comprises a description of the hardware components and the software components of the development environment, where the profile of the development environment comprises a description of the software application to be developed, as

recited in claim 12. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claim 12. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

15. Claims 13, 24, 35 and 46 are patentable over Ream in view of Bowman.

Appellant respectfully asserts that Ream and Bowman, taken singly or in combination, do not teach or suggest "receiving a second request, wherein said second request comprises a request to implement a change in said development environment" as recited in claim 13 and similarly in claims 24, 35 and 46. The Examiner cites paragraphs 0013 and 0014 of Ream as teaching the above-cited claim limitations. Paper No. 5, page 11. Appellant respectfully traverses.

Ream instead teaches that a build plan may cause a record to be written to an event log upon the completion of each installation package. [0013]. Ream further teaches that this may allow simple package counting to identify the installation package being installed at the point of failure, and optimally may allow an automated build to be initialized at this point once an installation error has been remedied. [0013]. Ream further teaches that the use of the build plan may allow the software components installed to be identified based on the installation programs present in the build library at the time of the build, such that a record can be generated based on the build date and the configuration of the build library to identify what revision levels of software were installed on a particular machine. [0014]. Ream further teaches that this may allow automated updating to occur at a later date simply by identifying a recipient computer built using a particular revision level of software. [0014]. Thus, Ream teaches identifying the installed software components as well as automatically updating installed software components. However, there is no language in the cited passages that teaches a development environment that includes hardware components

and software components. Neither is there any language in the cited passages that teaches a request to implement a change in such a development environment. Instead, Ream teaches updating only installed software components. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 13, 24, 35 and 46, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

In response to Appellant's above argument, the Examiner states "inherently after a failure, a request to implement a change is implied by Ream." Advisory Action, page 17. Appellant respectfully traverses the assertion that Ream inherently teaches receiving a second request where the second request comprises a request to implement a change in the development environment, as recited in claim 13. The Examiner must provide a basis in fact and/or technical reasoning to support the assertion that Ream inherently teaches receiving a second request where the second request comprises a request to implement a change in the development environment. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). That is, the Examiner must provide extrinsic evidence that must make clear that Ream inherently teaches receiving a second request where the second request comprises a request to implement a change in the development environment, and that it would be so recognized by persons of ordinary skill. *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). Since the Examiner has not provided any such objective evidence, the Examiner has not presented a *prima facie* case of obviousness for rejecting claims 13, 24, 35 and 46. M.P.E.P. §2143.

Further, in response to Appellant's above argument, the Examiner focuses on language in paragraphs 0013 and 0014 in Ream as teaching receiving a second request where the second request comprises a request to implement a change in the development environment. Advisory Action, page 18. However, the Examiner has provided no basis in fact and/or technical reasoning (which the Examiner must do) to

support her interpretation of these passages in Ream as teaching receiving a second request where the second request comprises a request to implement a change in the development environment, as recited in claim 13. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claims 13, 24, 35 and 46. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

16. Claims 14, 25, 36 and 47 are patentable over Ream in view of Bowman.

Appellant respectfully asserts that Ream and Bowman, taken singly or in combination, do not teach or suggest "receiving a second request, wherein said second request comprises a request to correct a problem detected in said development environment" as recited in claim 14 and similarly in claims 25, 36 and 47. The Examiner cites paragraph 0019 of Ream as teaching the above-cited claim limitations. Paper No. 5, page 12. Appellant respectfully traverses and asserts that Ream instead teaches that the process may cause an event log to be written after the execution of segments of a build plan, such that the event log can be later reviewed to determine whether the build plan functioned properly, and if not, what software package was not successfully installed, by the absence of an installation event written to the event log. [0019]. Hence, Ream teaches determining what software was not successfully installed. This is not the same as a request to correct a problem detected. Furthermore, there is no language in the cited passage that teaches a development environment that includes hardware components and software components. Neither is there any language in the cited passage that teaches a request to correct a problem detected in such a development environment. Therefore, the Examiner has not presented a *prima facie* case of obviousness in rejecting claims 14, 25, 36 and 47, since the Examiner is relying upon an incorrect, factual predicate in support of the rejection. *In re Rouffet*, 47 U.S.P.Q.2d 1453, 1455 (Fed. Cir. 1998).

In response to Appellant's above argument, the Examiner states "requests to correct a problem are inherent in logged events." Advisory Action, page 18. Appellant respectfully traverses the assertion that Ream inherently teaches receiving a second request where the second request comprises a request to correct a problem detected in the development environment, as recited in claim 14. The Examiner must provide a basis in fact and/or technical reasoning to support the assertion that Ream inherently teaches receiving a second request where the second request comprises a request to correct a problem detected in the development environment. *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). That is, the Examiner must provide extrinsic evidence that must make clear that Ream inherently teaches receiving a second request where the second request comprises a request to correct a problem detected in the development environment, and that it would be so recognized by persons of ordinary skill. *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999). Since the Examiner has not provided any such objective evidence, the Examiner has not presented a *prima facie* case of obviousness for rejecting claims 14, 25, 36 and 47. M.P.E.P. §2143.

Further, in response to Appellant's above argument, the Examiner focuses on language in paragraphs 0013 and 0019 in Ream as teaching receiving a second request where the second request comprises a request to correct a problem detected in the development environment. Advisory Action, pages 18-19. However, the Examiner has provided no basis in fact and/or technical reasoning (which the Examiner must do) to support her interpretation of these passages in Ream as teaching receiving a second request where the second request comprises a request to correct a problem detected in the development environment, as recited in claim 14. *See Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner is simply relying upon her own subjective opinion which is insufficient to establish a *prima facie* case of obviousness for rejecting claims 14, 25, 36 and 47. *See In re Lee*, 61 U.S.P.Q.2d 1430, 1434 (Fed. Cir. 2002).

VIII. CONCLUSION

For the reasons noted above, the rejections of claims 1-47 are in error. Appellant respectfully requests reversal of the rejections and allowance of claims 1-47.

Respectfully submitted,

WINSTEAD SECHREST & MINICK P.C.

Attorneys for Appellant

By: _____

Robert A. Voigt, Jr.

Reg. No. 47,159

Kelly K. Kordzik

Reg. No. 36,571

P.O. Box 50784
Dallas, Texas 75201
(512) 370-2832

CLAIMS APPENDIX

1. A method for creating and managing a development environment that mimics a target environment where a software application will be implemented comprising the steps of:

receiving a first request comprising a description of said development environment and said software application to be developed, wherein said development environment comprises hardware components and software components;

reviewing said first request in accordance with control information for managing said first request;

assigning said first request to one or more developers;

processing said first request;

establishing said development environment upon said processing said first request; and

monitoring said development environment asynchronously for violations of conditions established by said control information.

2. The method as recited in claim 1 further comprising the steps of:

identifying a violation of a condition; and

notifying a developer of said violated condition.

3. The method as recited in claim 2 further comprising the steps of:

inserting information of said violation of said condition in a report; and

issuing said report to a customer.

4. The method as recited in claim 1 further comprising the steps of:

inserting information on a status of said development environment in a report;

and

issuing said report to a customer.

5. The method as recited in claim 1, wherein said control information comprises one or more of the following: a statement of work, a profile of a server implemented in said development environment, a profile of a network component implemented in said development environment, and a profile of said development environment.

6. The method as recited in claim 5, wherein said statement of work comprises standards for hardware components and software components in said target environment, wherein said statement of work comprises contract conditions.

7. The method as recited in claim 5, wherein said server profile comprises a description of said server implemented in said development environment.

8. The method as recited in claim 5, wherein said network component profile comprises a description of said network component implemented in said development environment.

9. The method as recited in claim 5, wherein said profile of said development environment comprises a description of said hardware components and said software components of said development environment, wherein said profile of said development environment comprises a description of said software application to be developed.

10. The method as recited in claim 1, wherein said processing said first request comprises updating a profile of a server implemented in said development environment, wherein said server profile comprises a description of said server implemented in said development environment.

11. The method as recited in claim 1, wherein said processing said first request

comprises updating a profile of a network component implemented in said development environment, wherein said network component profile comprises a description of said network component implemented in said development environment.

12. The method as recited in claim 1, wherein said processing said first request comprises updating profile of said development environment, wherein said profile of said development environment comprises a description of said hardware components and said software components of said development environment, wherein said profile of said development environment comprises a description of said software application to be developed.

13. The method as recited in claim 1 further comprising the step of:
receiving a second request, wherein said second request comprises a request to implement a change in said development environment.

14. The method as recited in claim 1 further comprising the step of:
receiving a second request, wherein said second request comprises a request to correct a problem detected in said development environment.

15. A computer program product embodied in a machine readable medium for creating and managing a development environment that mimics a target environment where a software application will be implemented comprising the programming steps of:

receiving a first request comprising a description of said development environment and said software application to be developed, wherein said development environment comprises hardware components and software components, wherein said first request is reviewed in accordance with control information for managing said first request, wherein said first request is processed,

wherein upon processing said first request said development environment is established; and

monitoring said development environment asynchronously for violations of conditions established by said control information.

16. The computer program as recited in claim 15 further comprising the programming steps of:

identifying a violation of a condition; and
notifying said a developer of said violated condition.

17. The computer program as recited in claim 16 further comprising the programming steps of:

inserting information of said violation of said condition in a report; and
issuing said report to a customer.

18. The computer program product as recited in claim 15 further comprising the programming steps of:

inserting information on a status of said development environment in a report;
and
issuing said report to a customer.

19. The computer program product as recited in claim 15, wherein said control information comprises a statement of work, wherein said statement of work comprises standards for hardware components and software components in said target environment, wherein said statement of work comprises contract conditions.

20. The computer program product as recited in claim 15, wherein said control information comprises one or more of the following: a statement of work, a profile of a server implemented in said development environment, a profile of a network

component implemented in said development environment, and a profile of said development environment.

21. The computer program product as recited in claim 20, wherein said server profile comprises a description of said server implemented in said development environment.

22. The computer program product as recited in claim 20, wherein said network component profile comprises a description of said network component implemented in said development environment.

23. The computer program product as recited in claim 20, wherein said profile of said development environment comprises a description of said hardware components and said software components of said development environment, wherein said profile of said development environment comprises a description of said software application to be developed.

24. The computer program product as recited in claim 15 further comprising the programming step of:

receiving a second request, wherein said second request comprises a request to implement a change in said development environment.

25. The computer program product as recited in claim 15 further comprising the programming step of:

receiving a second request, wherein said second request comprises a request to correct a problem detected in said development environment.

26. A system, comprising:

a memory unit operable for storing a computer program operable for creating

and managing said development environment that mimics said target environment where said software application will be implemented; and

a processor coupled to said memory unit, wherein said processor, responsive to said computer program, comprises:

circuitry operable for receiving a first request comprising a description of a development environment and a software application to be developed in a target environment, wherein said development environment comprises hardware components and software components, wherein said first request is reviewed in accordance with control information for managing said first request, wherein said first request is processed, wherein upon processing said first request said development environment is established; and

circuitry operable for monitoring said development environment asynchronously for violations of conditions established by said control information.

27. The system as recited in claim 26, wherein said processor further comprises:
circuitry operable for identifying a violation of a condition; and
circuitry operable for notifying a developer of said violated condition.
28. The system as recited in claim 27, wherein said processor further comprises:
circuitry operable for inserting information of said violation of said condition in a report; and
circuitry operable for issuing said report to a customer.
29. The system as recited in claim 26, wherein said processor further comprises:
circuitry operable for inserting information on a status of said development environment in a report; and
circuitry operable for issuing said report to a customer.
30. The system as recited in claim 26, wherein said control information comprises

one or more of the following: a statement of work, a profile of a server implemented in said development environment, a profile of a network component implemented in said development environment, and a profile of said development environment.

31. The system as recited in claim 30, wherein said statement of work comprises standards for hardware components and software components in said target environment, wherein said statement of work comprises contract conditions.

32. The system as recited in claim 30, wherein said server profile comprises a description of said server implemented in said development environment.

33. The system as recited in claim 30, wherein said network component profile comprises a description of said network component implemented in said development environment.

34. The system as recited in claim 30, wherein said profile of said development environment comprises a description of said hardware components and said software components of said development environment, wherein said profile of said development environment comprises a description of said software application to be developed.

35. The system as recited in claim 26, wherein said processor further comprises:
circuitry operable for receiving a second request, wherein said second request comprises a request to implement a change in said development environment.

36. The system as recited in claim 26, wherein said processor further comprises:
circuitry operable for receiving a second request, wherein said second request comprises a request to correct a problem detected in said development environment.

37. A system, comprising:

means for receiving a first request comprising a description of a development environment and a software application to be developed in a target environment, wherein said development environment comprises hardware components and software components, wherein said first request is reviewed in accordance with control information for managing said first request, wherein said first request is processed, wherein upon processing said first request said development environment is established; and

means for monitoring said development environment asynchronously for violations of conditions established by said control information.

38. The system as recited in claim 37, wherein said system further comprises:

means for identifying a violation of a condition; and

means for notifying a developer of said violated condition.

39. The system as recited in claim 38, wherein said system further comprises:

means for inserting information of said violation of said condition in a report;

and

means for issuing said report to a customer.

40. The system as recited in claim 37, wherein said system further comprises:

means for inserting information on a status of said development environment in a report; and

means for issuing said report to a customer.

41. The system as recited in claim 37, wherein said control information comprises one or more of the following: a statement of work, a profile of a server implemented in said development environment, a profile of a network component implemented in said development environment, and a profile of said development environment.

42. The system as recited in claim 41, wherein said statement of work comprises standards for hardware components and software components in said target environment, wherein said statement of work comprises contract conditions.

43. The system as recited in claim 41, wherein said server profile comprises a description of said server implemented in said development environment.

44. The system as recited in claim 41, wherein said network component profile comprises a description of said network component implemented in said development environment.

45. The system as recited in claim 41, wherein said profile of said development environment comprises a description of said hardware components and said software components of said development environment, wherein said profile of said development environment comprises a description of said software application to be developed.

46. The system as recited in claim 37, wherein said system further comprises:
means for receiving a second request, wherein said second request comprises a request to implement a change in said development environment.

47. The system as recited in claim 37, wherein said system further comprises:
means for receiving a second request, wherein said second request comprises a request to correct a problem detected in said development environment.

EVIDENCE APPENDIX

No evidence was submitted pursuant to §§1.130, 1.131, or 1.132 of 37 C.F.R. or of any other evidence entered by the Examiner and relied upon by Appellant in the Appeal.

RELATED PROCEEDINGS APPENDIX

There are no related proceedings to the current proceeding.



AFI TRU

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission 66

Application Number	10/015,855
Filing Date	12/13/2001
First Named Inventor	John F. Bisceglia
Art Unit	2122
Examiner Name	Mary J. Steelman
Attorney Docket Number	AUS920011004US1

ENCLOSURES (Check all that apply)

- | | | |
|---|--|---|
| <input checked="" type="checkbox"/> Fee Transmittal Form
<input type="checkbox"/> Fee Attached
<input type="checkbox"/> Amendment/Reply
<input type="checkbox"/> After Final
<input type="checkbox"/> Affidavits/declaration(s)
<input type="checkbox"/> Extension of Time Request
<input type="checkbox"/> Express Abandonment Request
<input type="checkbox"/> Information Disclosure Statement

<input type="checkbox"/> Certified Copy of Priority Document(s)
<input type="checkbox"/> Reply to Missing Parts/ Incomplete Application
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)
<input type="checkbox"/> Licensing-related Papers
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<input type="checkbox"/> Power of Attorney, Revocation
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<input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC
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Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Winstead Sechrest & Minick P.C.
Signature	
Printed name	Robert A. Voigt, Jr.
Date	09/01/2005
Reg. No.	47,159

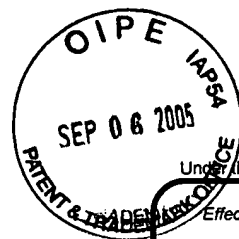
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Signature	
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Date	09/01/2005

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FEE TRANSMITTAL For FY 2005

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)**500.00**

PTO/SB/17 (11-04)

Approved for use through 07/31/2006. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Complete if Known

Application Number	10/015,855
Filing Date	12/13/2001
First Named Inventor	John F. Bisceglia
Examiner Name	Mary J. Steelman
Art Unit	2122
Attorney Docket No.	AUS920011004US1

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order

☒ Deposit Account ☐ None

Deposit Account Number **09-0447**
Deposit Account Name **IBM Corporation**

The Director is hereby authorized to: (check all that apply)

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to the above-identified deposit account.

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FEE CALCULATION

1. BASIC FILING FEE

Fee Description	Fee (\$)	Small Entity Fee (\$)	Fee Paid(\$)
Utility Filing Fee	790	395	
Design Filing Fee	350	175	
Plant Filing Fee	550	275	
Reissue Filing Fee	790	395	
Provisional Filing Fee	160	80	

Subtotal (1) \$

FEE CALCULATION (continued)

2. EXTRA CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20	50	25
Each independent claim over 3	200	100
Multiple dependent claims	360	180
For Reissues, each claim over 20 and more than in the original patent	50	25
For Reissues, each independent claim more than in the original patent	200	100

Total Claims Extra Claims Fee (\$) Fee Paid (\$)
- 20 or HP = x =
HP = highest number of total claims paid for, if greater than 20

Indep. Claims Extra Claims Fee (\$) Fee Paid (\$)
- 3 or HP = x =
HP = highest number of independent claims paid for, if greater than 3

Multiple Dependent Claims Fee (\$) Fee Paid (\$)

Subtotal (2) \$

3. OTHER FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)	Fee Paid(\$)
1-month extension of time	120	60	
2-month extension of time	450	225	
3-month extension of time	1,020	510	
4-month extension of time	1,590	795	
5-month extension of time	2,160	1,080	
Information disclosure stmt. fee	180	180	
37 CFR 1.17(q) processing fee	50	50	
Non-English specification	130	130	
Notice of Appeal	500	250	
Filing a brief in support of appeal	500	250	500
Request for oral hearing	1,000	500	

Other:

Subtotal (3) \$ 500

SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 47.159	Telephone 512.370.2832
Name (Print/Type)	Robert A. Voigt, Jr.	Date 09/01/2005	

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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